



HOUSE JOINT RESOLUTION No. 9

DIGEST OF INTRODUCED RESOLUTION

Citations Affected: Article 7 of the Indiana Constitution.

Synopsis: Selection of supreme court justices. Provides that the Indiana supreme court consists of five members, three of whom are elected by the voters of districts and two of whom are elected by all the voters of Indiana. Provides that the general assembly may by law provide for transition from a system of appointed and retained justices to a system for election of justices. Provides that the governor fills a vacancy on the supreme court from the judges of the court of appeals and the individual who fills the vacancy serves the remainder of the unexpired term of the justice the individual succeeds. Makes technical changes. This proposed amendment has not been previously agreed to by a general assembly.

Effective: This proposed amendment must be agreed to by two consecutive general assemblies and ratified by a majority of the state's voters voting on the question to be effective.

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January 14, 2009, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE JOINT RESOLUTION No. 9

A JOINT RESOLUTION proposing an amendment to Article 7 of the Indiana Constitution concerning courts and court officers.

Be it resolved by the General Assembly of the State of Indiana:

- 1 SECTION 1. The following amendment to the Constitution of the
2 State of Indiana is proposed and agreed to by this, the One Hundred
3 Sixteenth General Assembly of the State of Indiana, and is referred to
4 the next General Assembly for reconsideration and agreement.
- 5 SECTION 2. ARTICLE 7, SECTION 2 OF THE CONSTITUTION
6 OF THE STATE OF INDIANA IS AMENDED TO READ AS
7 FOLLOWS: Section 2. ~~Supreme Court.~~ (a) The Supreme Court shall
8 consist of the Chief Justice of the State and ~~not less than~~ four ~~not more~~
9 ~~than eight~~ associate justices; a majority of whom shall form a quorum.
- 10 (b) The court may appoint such personnel as may be necessary.
- 11 SECTION 3. ARTICLE 7, SECTION 3 OF THE CONSTITUTION
12 OF THE STATE OF INDIANA IS AMENDED TO READ AS
13 FOLLOWS: Section 3. ~~Chief Justice.~~ (a) The Chief Justice of the State



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shall be ~~selected~~ **appointed** by the ~~judicial nominating commission~~
~~from the~~ members of the Supreme Court. ~~and he~~

(b) **The chief justice** shall retain that office for a period of five years, subject to reappointment in the same manner, except that a member of the Court may resign the office of Chief Justice without resigning from the Court. During a vacancy in the office of Chief Justice caused by absence, illness, incapacity or resignation all powers and duties of that office shall devolve upon the member of the Supreme Court who is senior in length of service and if equal in length of service the determination shall be by lot until such time as the cause of the vacancy is terminated or the vacancy is filled.

(c) The Chief Justice ~~of the State~~ shall appoint such persons as the General Assembly by law may provide for the administration of ~~his the~~ **Chief Justice's** office. The Chief Justice shall have prepared and submit to the General Assembly regular reports on the condition of the courts and such other reports as may be requested.

SECTION 4. ARTICLE 7, SECTION 9 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 9. ~~Judicial Nominating Commission.~~ (a) There shall be one ~~judicial nominating commission for the Supreme Court and Court of Appeals.~~ **on judicial qualifications.** This commission shall, in addition, be the commission on judicial ~~qualifications~~ **nominations** for the ~~Supreme Court and Court of Appeals.~~

(b) The ~~judicial nominating~~ commission shall consist of seven members, a majority of whom shall form a quorum. ~~one of whom shall be~~

(c) The Chief Justice of the State or a Justice of the Supreme Court ~~whom he may designate; who~~ **designated by the Chief Justice is a commission member and** shall act as ~~chairman.~~ **the commission's chair.**

(d) Those admitted to the practice of law shall elect three of their number to serve as members of ~~said the~~ commission. All elections shall be in such manner as the General Assembly may provide.

(e) The Governor shall appoint to the commission three citizens, not admitted to the practice of law.

(f) The terms of office and compensation for members of ~~a judicial nominating the~~ commission shall be fixed by the General Assembly. ~~No~~

(g) A member of ~~a judicial nominating the~~ commission other than the Chief Justice or ~~his the Chief Justice's~~ designee ~~shall~~ **may not** hold:

(1) any other salaried public office; ~~No member shall hold or~~

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(2) an office in a political party or organization. ~~No~~

(h) A member of the ~~judicial nominating~~ commission ~~shall be~~ is not eligible for appointment to a judicial office: ~~so long as he~~

(1) while the individual is a member of the commission; and

(2) for a period of three years thereafter.

SECTION 5. ARTICLE 7, SECTION 10 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 10. ~~Selection of Justices of the Supreme Court and Judges of the Court of Appeals.~~ (a) **The governor shall fill a vacancy on the Supreme Court from among the members of the Court of Appeals. The individual who fills the vacancy shall serve the remainder of the unexpired term of the justice whom the individual succeeds.**

(b) A vacancy in a ~~judicial office in~~ on the Supreme Court or Court of Appeals shall be filled by the Governor, without regard to political affiliation, from a list of three nominees presented to him the Governor by the ~~judicial nominating~~ commission on **judicial qualifications**. If the Governor ~~shall fail~~ fails to make an appointment from the list within sixty days from the day it is presented to him; the Governor is presented the list, the appointment shall be made by the Chief Justice or the acting Chief Justice from the same list.

(c) To be eligible for nomination as a justice of the Supreme Court or Judge of the Court of Appeals, a person must be:

(1) domiciled within the geographic district;

(2) a citizen of the United States; and

(3) admitted to the practice of law in the courts of the State Indiana for a period of not less than ten (10) years or must have served as a judge of a circuit, superior or criminal court of the State of Indiana for a period of not less than five (5) years.

SECTION 6. ARTICLE 7, SECTION 11 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 11. ~~Tenure of Justices of Supreme Court and Judges of the Court of Appeals.~~ (a) A justice of the Supreme Court or shall serve a term of six years beginning on January 1 after the justice's election. The General Assembly elected during the year in which a federal decennial census is taken shall divide Indiana into three districts:

(1) the territory of each of which must be contiguous; and

(2) contain, as nearly as is possible, equal population.

One justice shall be elected by the voters of each of the districts, and two justices shall be elected by all the voters of Indiana.

(b) The General Assembly may provide by law the means for a

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transition from the system of appointment and retention of justices to election of justices under subsection (a). The General Assembly may do any of the following under this subsection:

(1) Designate the election year at which justices are first elected.

(2) Stagger the terms of justices first elected under this subsection.

(3) Shorten or extend the term of a justice first elected under this subsection.

(4) Shorten or extend the term of a justice who was appointed and retained under this article before the effective date of this subsection.

(5) Make other provisions for an orderly transition to a system of election of justices that the General Assembly considers necessary.

(c) A judge of the Court of Appeals shall serve until the next general election following the expiration of two years from the date of appointment, and subject to approval or rejection by the electorate, shall continue to serve for terms of ten years, so long as ~~he~~ **the judge** retains ~~his~~ **the** office. ~~In the case of a justice of the Supreme Court, the electorate of the entire state shall vote on the question of approval or rejection. In the case of judges of the Court of Appeals The electorate voters of the geographic district in which he a judge of the Court of Appeals serves shall vote on the question of the judge's approval or rejection.~~

(d) Every ~~such~~ justice and judge shall retire at the age specified by statute in effect at the commencement of ~~his~~ **the justice's or judge's** current term.

(e) Every ~~such~~ justice or judge is disqualified from acting as a judicial officer, without loss of salary, while there is pending:

(1) an indictment or information charging ~~him~~ **the justice or judge** in any court in the United States with a crime punishable as a felony under the laws of Indiana or the United States; or

(2) a recommendation to the Supreme Court by the commission on judicial qualifications for ~~his~~ **the justice's or judge's** removal or retirement.

(f) On recommendation of the commission on judicial qualifications or on its own motion, the Supreme Court may suspend ~~such~~ **a** justice or judge from office without salary when in any court in the United States ~~he~~ **the justice or judge** pleads guilty or no contest or is found guilty of a crime punishable as a felony under the laws of Indiana or the United States, or of any other crime that involves moral turpitude under

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that law. If ~~his~~ **the justice's or judge's** conviction is reversed, the suspension terminates and ~~he~~ **the justice or judge** shall be paid ~~his~~ **the** salary for the period of suspension. If ~~he~~ **the justice or judge** is suspended and ~~his~~ **the** conviction becomes final, the Supreme Court shall remove ~~him~~ **the justice or judge** from office.

(g) On recommendation of the commission on judicial qualifications the Supreme Court may:

(1) retire ~~such a~~ justice or judge for disability that:

(A) seriously interferes with the performance of ~~his~~ duties; and

(B) is or is likely to become permanent; and

(2) censure or remove ~~such a~~ justice or judge, for action occurring not more than six years prior to the commencement of ~~his~~ **the justice's or judge's** current term, when ~~such~~ **the** action constitutes:

(A) willful misconduct in office;

(B) willful and persistent failure to perform ~~his~~ duties;

(C) habitual intemperance; or

(D) conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(h) A justice or judge ~~so~~ retired by the Supreme Court shall be considered to have retired voluntarily. A justice or judge ~~so~~ removed by the Supreme Court is ineligible for judicial office and pending further order of the Court, ~~he~~ is suspended from practicing law in ~~this~~ **State: Indiana.**

(i) Upon receipt by the Supreme Court of any such recommendation, the Court shall hold a hearing, at which ~~such~~ **the** justice or judge is entitled to be present, and make ~~such~~ **those** determinations ~~as shall~~ **the Court considers to** be required. ~~No~~ **A justice shall may not** participate in the determination of ~~such a~~ hearing when it concerns ~~himself: that~~ **justice.**

(j) The Supreme Court shall make rules implementing this section and provide for convening of hearings. Hearings and proceedings shall be public upon request of the justice or judge whom it concerns. ~~No~~ **such**

(k) A justice or judge ~~shall~~, **may not**, during ~~his~~ **the justice's or judge's** term of office, **do any of the following:**

(1) Engage in the practice of law.

(2) Run for elective office other than a judicial office.

(3) Directly or indirectly make any contribution to, or hold any office in, a political party or organization. ~~or~~

(4) Take part in any political campaign.

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